

**OKLAHOMA WORKERS' COMPENSATION COMMISSION
REGULAR MEETING MINUTES
AUGUST 19, 2021, 1:30 P.M.**

STATEMENT OF OKLAHOMA OPEN MEETING ACT COMPLIANCE

Notice of this Special Business Meeting was filed with the Secretary of State's office on Tuesday, December 29, 2020, at 3:56 p.m. in compliance with the Open Meeting Act.

The agenda was posted at least 24 hours in advance of the meeting, in compliance with the Open Meeting Act. It was posted on the Commission website and at 1915 N. Stiles Ave., Oklahoma City, Oklahoma, the Commission's principal office.

**MINUTES OF THE AUGUST 19, 2021 REGULAR BUSINESS MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION COMMISSION**

The members of the Oklahoma Workers' Compensation Commission met at 1915 N. Stiles Ave., 2nd floor, Oklahoma City, Oklahoma, on August 19, 2021.

Members present: Chairman Jordan Russell, Commissioner Mark Liotta, and Commissioner Megan Tilly.

Others Present: Andrea Delling, WCC; Collin Fowler, WCC; Tava Jones, WCC; Alexander Watkins, WCC; Lauren Hammonds Johnson, WCC; James Lawson, WCC; and J. Christopher Sturm, Oklahoma Automobile Dealers Self-insurance Association.

Chairman Russell expressed appreciation for those in attendance. After the roll was taken, Chairman Russell announced the presence of a quorum. The meeting was called to order at 1:30 p.m.

A. Business Meeting Agenda Items

1. Approval of Minutes

The minutes of the August 12, 2021, Special Meeting of the Commission were considered for approval.

Motion: Commissioner Liotta moved to approve the minutes of the August 12, 2021, Special Meeting of the Commission.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

2. Discussion and Possible Action of Consent Agenda for Travel Vouchers Currently Outstanding

Title 85A O.S. § 23 states, [a]ny Commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission.” In accordance with this section, the Commission will consider a vote to approve the currently outstanding vouchers.

All travel vouchers listed within this Consent Agenda have been made available to each Commissioner prior to today’s meeting, are considered routine, and will be enacted by one motion of the Commission. If separate discussion is desired, that item may be removed from the Consent Agenda and voted upon separately.

Motion: Commissioner Liotta moved to approve the outstanding travel vouchers.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

3. Request to Approve the Distribution of Surplus Monies to Members of the Oklahoma Operators Self-Insurers Fund (#75292)

Rule 810:25-11-10 of the Workers’ Compensation Commission provides that any distributions of surplus funds back to the members of a group self-insurance association shall be subject to the prior approval of the Commission.

The Oklahoma Operators Self-Insurers Fund (“the Group”) has requested to make a partial distribution in the amount of \$450,000, which will be payable from Fund Years 2014 (\$250,000), 2015 (\$100,000), 2016 (\$50,000), and 2017 (\$50,000). All claims for these fund years are closed.

The Group had a financial surplus of more than \$1,329,980 for all years combined, as indicated in the audited financial statement for the period ending December 31, 2020.

The Group submitted the audited financial statement for the year ending December 31, 2020 in support of their request.

James Lawson was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Tilly moved to approve the distribution in the amount of \$450,000.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

4. Request to Approve the Distribution of Surplus Monies to Members of the Oklahoma Automobile Dealers Self-insurance Association (#75088)

Rule 810:25-11-10 of the Workers' Compensation Commission provides that any distributions of surplus funds back to the members of a group self-insurance association shall be subject to the prior approval of the Commission.

The Oklahoma Automobile Dealers Self Insured Association ("the Group") has requested to make a partial distribution of \$4,400,000, which will be payable in the following amounts from the indicated fiscal year: \$1,000,000 (FY 20-21); \$1,200,000 (FY 19-20); \$1,000,000 (FY 18-19); \$600,000 (FY 17-18); \$200,000 (FY 16-17); and \$400,000 (FY 15-16); The partial distribution will be made to all of the current active or otherwise qualified members which participated in those fiscal years.

The Group appears to be a healthy, well-managed group and has been profitable every year of existence. The Group's current financial surplus is \$13,105,133 for all years combined, as indicated in the financial statement for the period ending on March 31, 2021.

The Group has submitted the actuarial review of reserves and the audited financial statement for the year ending March 31, 2021 in support of their request. The Group maintains reserves as recommended in the Group's Actuarial Reserve Analysis as of 3/31/21 and will continue to have a surplus in each of these four fiscal years if this distribution is approved.

James Lawson was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Tilly moved to approve the partial distribution as proposed.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

5. Request to Reduce Security Deposit for Navistar, Inc., Own Risk Permit #19208

Navistar, Inc. (“the Company”), own risk permit #19208, was a self-insured employer in the Own Risk program until August 1, 2019. They petitioned the Commission to reduce the Company’s security deposit on file. The Commission held a \$4,900,000 Letter of Credit, issued by Bank of America as security deposit. They requested a reduction of their security deposit to \$2,000,000. The company has open claims totaling \$1,300,000.

The Company has complied with Commission Rule 810:25-9-19.

James Lawson was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Liotta moved to reduce the security deposit of Navistar, Inc. as proposed.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

6. Discussion and Possible Action of Remodel Construction Contract for the Denver N. Davison Building

The Workers’ Compensation Commission previously approved renovation design plans for the partial renovation of the first and second floor offices in the Denver N. Davison Building in Oklahoma City. The Commission approved the bid of Downey Contracting, L.L.C. as the vendor for the construction project in the amount of \$754,000. The Commission discussed and considered approval of the construction contract.

Lauren Hammonds Johnson was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Liotta moved to approve the remodel construction contract for the Denver N. Davison Building.

Second: Chairman Russell

Abstained: Commissioner Tilly

Those voting aye: Chairman Russell and Commissioner Liotta.

The motion carried.

7. Discussion and Consideration of Renewal of a 20i Contract between the Commission and the Office of the Oklahoma Attorney General for Fiscal Year 2022

The Commission discussed and considered proposed contracts engaging the legal services of the Office of the Oklahoma Attorney General for the Compliance Division for FY22. The costs of the proposed contracts are \$26,375.04 for 25% FTE equivalent legal services or \$52,749.96 for 50% FTE equivalent legal services.

Lauren Hammonds Johnson was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Tilly moved to approve the contract for 25% FTE.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

Motion: Commissioner Liotta further moved to authorize the Commission's Chair to sign the contract on behalf of the Commission.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

8. Discussion and Possible Action Regarding Objectstream Phase II Agreement-Addendum 4

Addendum 4 memorializes necessary adjustments to the CaseOK Phase II project scope, timeline, and payments as a result of an increased need for functionality and the complexity of the software's creation, data integration, and implementation.

Lauren Hammonds Johnson was recognized, presented, and answered questions of the Commission.

Motion: Commissioner Liotta moved to approve the contract as proposed.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

Motion: Commissioner Tilly further moved to authorize the Commission's Chair to sign the contract on behalf of the Commission.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

9. Discussion and Possible Action on Lease Agreement for New WCC Tulsa Office Space

House Bill 4139 (2020) directed OMES to relocate state agencies currently housed within the Kerr Edmondson Building in Tulsa, Oklahoma, including the Workers' Compensation Commission, to a property owned by the Commissioners of the Land Office ("CLO"). CLO and OMES have identified 201 W. 5th Street in Tulsa, Oklahoma as a relocation site for the WCC's Tulsa Office. The Commission discussed and considered action on a proposed Lease Agreement with CLO and OMES to occupy this office space.

Chairman Russell presented and answered questions of the Commission.

No action was taken on this agenda item.

10. Discussion and Possible Action Regarding the Draft Oklahoma Option Insured Guaranty Fund Monies Letter

The Oklahoma Option Insured Guaranty Fund, 85A O.S.2014, §§ 201-213 (now repealed), was found unconstitutional in 2016, and assessments from insurers and carriers are no longer collected or paid into the fund. The Commission discussed a draft letter seeking legislative assistance to address monies remaining in this fund.

Commissioner Liotta presented and answered questions of the Commission.

Chairman Russell offered comments on potential use of the funds to include in the letter.

Motion: Commissioner Tilly approve the letter subject to the modifications discussed in the meeting.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

11. New Business

“[A]ny matter not known about or which could not have been reasonably foreseen prior to the time of the posting.” 25 O.S. § 311.

There was no new business.

B. Commission Consideration of Adoption of Final Order in the Following Cases:

1. Tanya Reynolds v. Harvest Hills Baptist Church & Christian School, Church Mutual Ins. Co., S.I., File #CM2019-07146L

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Louis P. Falsetti appeared Claimant and Jeffrey W. Dasovich appeared for the Respondent.

This case came on for Oral Argument on March 26, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

2. Jose Guevara v. Seaboard Foods LLC and Indemnity Insurance Co. of North America, File #CM2020-00416R

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Ryan Polchinski appeared for the Claimant and Jay Chaney appeared for the Respondent.

This case came on for Oral Argument on April 16, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and

authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

3. **Keely Norfolk v. La Quinta Inn & Suites Truck Insurance Exchange and Prime Lodging LLC Truck Insurance Exchange, File #CM2019-02204F**

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Brandon J. Burton is the attorney of record for the Claimant and Lacy N. Vassar is the attorney of record for the Respondent.

This case came on for Oral Argument on May 21, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to approve the order as proposed and previously circulated.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED IN PART AND VACATED IN PART

4. **Danny Roberson v. Multiple Injury Trust Fund, File #CM2017-04700JMIF**

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Cathy G. Enterline appeared for the Claimant and Travis Colt appeared for the Respondent.

This case came on for Oral Argument on July 16, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: After reviewing the record, hearing oral arguments, and deliberating, Commissioner Tilly moved to approve the order as proposed and previously circulated.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER VACATED AND REMANDED

5. **Valerie Wilson v. MITF, File #CM2017-00270K**

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Alex Forbes appeared for the Claimant and Jennifer Finley appeared for the Respondent.

This case came on for Oral Argument on January 15, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved to continue all remaining orders.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED

6. **Carlton Thomas v. Cameron Logistics LLC and United Wisconsin Insurance Co., File #CM2019-05408R**

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Timothy Kent appeared for the Claimant and Blake Farris appeared for the Respondent.

This case came on for Oral Argument on April 16, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved to continue all remaining orders.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED

7. Sandra Bennett v. Multiple Injury Trust Fund, File #CM2017-04820XMIF

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Susan H. Jones appeared for the Claimant and Travis Colt appeared for the Respondent.

This case came on for Oral Argument on May 21, 2021. After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to take preliminary action to affirm the Administrative Law Judge's Order and instructed Appellate Counsel or other staff member to draft a proposed order to be considered at a future meeting.

Motion: Commissioner Tilly moved to continue all remaining orders.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED

8. J. Asuncion Abonza v. Exterran Holdings Inc. and American Zurich Insurance Co., File #CM2015-08100F/CM2016-03867H

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Bret A. Unterschuetz appeared for the Claimant. Michael Fagan and Taylor K. Weder appeared for the Respondent.

This case came on for Oral Argument on July 16, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved to continue all remaining orders.

Second: Commissioner Liotta

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

THE MOTION CARRIED: ALL REMAINING ORDERS CONTINUED

ADJOURNMENT.....Chairman Jordan Russell

Motion: Commissioner Liotta moved to adjourn.

Second: Commissioner Tilly

Those voting aye: Chairman Russell, Commissioner Liotta, and Commissioner Tilly.

The motion carried.

The meeting adjourned at 2:18 p.m.